

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Thirteenth Congress
Second Regular Session

House Bill No. 5358



Introduced by Representative **Imee R. Marcos**

EXPLANATORY NOTE

The conjugal partnership of gains prevailed as a legal system in the Philippines since time immemorial. In drawing up the Family Code, the Code Commission for the Civil Code has introduced a somewhat "revolutionary" concept in property relations, which is the system of absolute community of property, principally considering their observation that it is a custom in a majority of Filipino families that the husband and wife consider themselves co-owners of all the property brought into and acquired during the marriage. Moreover, our esteemed Code Commission supposed that this property regime brings about the closer union of husband and wife.

This regime of property, however, is also replete with disapprovals. This system has been criticized as disadvantageous to parties with greater amount of property at the start of marriage. It is said that the system of absolute community of property can be a means of transferring property from the spouse with more assets to the spouse who has less or none -- a probable aid to fortune hunters.

Moreover, the subject property regime restricts freedom of circulation of property and the freedom of an owner to dispose of what has always been his but is lost by the celebration of marriage. And since the system cannot be changed once the marriage has been celebrated, it may turn out to be a source of friction in the marriage in the course of time -- a situation very much incompatible with the predicted harmonious relationship between the husband and the wife. And to make the matter worse, a person could lose his or her property without even knowing it. Persons about to get married seldom think of property arrangements. Most often than not, they have no idea of what the law really is.¹

To address the conceived negative aspect arising from the adoption of the absolute community of property as the governing property regime absent any marriage settlement or when the same is void, this author seeks the reversion to the conjugal partnership of gains as the default property regime between husbands and wives. And for the above reasons, this author earnestly recommends immediate approval of this bill.

Imee R. Marcos
Imee R. Marcos
Representative
2nd District, Ilocos Norte

¹ Tolentino, Arturo M., Civil Code of the Philippines (1990), pp. 380-381.

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AN ACT
ADOPTING THE CONJUGAL PARTNERSHIP OF GAINS
AS THE GOVERNING REGIME IN THE PROPERTY RELATIONS OF HUSBAND AND WIFE
IN CASE OF ABSENCE OF, OR OF A VOID, MARRIAGE SETTLEMENT,
THEREBY AMENDING THE FAMILY CODE OF THE PHILIPPINES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Article 75 of the Family Code of the Philippines is hereby amended to read as follows:

Art. 75. The future spouses may, in the marriage settlements, agree upon the regime of absolute community, conjugal partnership of gains, complete separation of property, or any other regime. In the absence of a marriage settlement, or when the regime agreed upon is void, the system of **CONJUGAL PARTNERSHIP OF GAINS** (absolute community of property) as established in this Code shall govern **THE PROPERTY RELATIONS BETWEEN THE HUSBAND AND THE WIFE** (add).

SECTION 2. Article 88 shall remain under Chapter 3 which shall now be subtitled Conjugal Partnership of Gains but shall be amended to read as follows:

Art. 88. The **CONJUGAL PARTNERSHIP OF GAINS** (absolute community of property) between spouses shall commence at the precise moment that the marriage is celebrated. Any stipulation, express or implied, for the commencement of the community regime at any other time shall be void.

SECTION 3. Article 89 shall remain under Chapter 3 which shall now be subtitled Conjugal Partnership of Gains but shall be amended to read as follows:

Art. 89. No waiver of rights, shares and effects of the **CONJUGAL PARTNERSHIP PROPERTY** (absolute community of property) during the marriage can be made except in case of judicial separation of property.

When the waiver takes place upon a judicial separation of property, or after the marriage has been dissolved or annulled, the same shall appear in a public instrument and shall be recorded as provided in Article 77. The creditors of the spouse who made such waiver may petition the court to rescind the waiver to the extent of the amount sufficient to cover the amount of their credits.

SECTION 4. Article 105 of the Family Code of the Philippines, renumbered Article 90 in this Act, is hereby be amended by deleting the first paragraph thereof to read as follows:

Article 90. (1st paragraph deleted)

The provisions of this Chapter shall also apply to conjugal partnerships of gains already established between spouses before the effectivity of this Code, without prejudice to vested rights already acquired in accordance with the Civil Code or other laws, as provided in Article 256.

SECTION 5. Article 106 of the Family Code of the Philippines under the heading "General Provisions" shall be renumbered Article 91.

SECTION 6. Article 108 of the Family Code of the Philippines under the heading "General Provisions" shall be renumbered Article 92.

SECTION 7. Article 109 of the Family Code of the Philippines under the heading "Exclusive Property of Each Spouse" shall be renumbered Article 93.

SECTION 8. Article 110 of the Family Code of the Philippines under the heading "Exclusive Property of Each Spouse" shall be renumbered Article 94.

SECTION 9. Article 111 of the Family Code of the Philippines under the heading "Exclusive Property of Each Spouse" shall be renumbered Article 95.

SECTION 10. Article 112 of the Family Code of the Philippines under the heading "Exclusive Property of Each Spouse" shall be renumbered Article 96.

SECTION 11. Article 113 of the Family Code of the Philippines under the heading "Exclusive Property of Each Spouse" shall be renumbered Article 97.

SECTION 12. Article 114 of the Family Code of the Philippines under the heading "Exclusive Property of Each Spouse" shall be renumbered Article 98.

SECTION 13. Article 115 of the Family Code of the Philippines under the heading "Exclusive Property of Each Spouse" shall be renumbered Article 99.

SECTION 14. Article 116 of the Family Code of the Philippines under the heading "Conjugal Partnership Property" shall be renumbered Article 100.

SECTION 15. Article 117 of the Family Code of the Philippines under the heading "Conjugal Partnership Property" shall be renumbered Article 101.

SECTION 16. Article 118 of the Family Code of the Philippines under the heading "Conjugal Partnership Property" shall be renumbered Article 102.

SECTION 17. Article 119 of the Family Code of the Philippines under the heading "Conjugal Partnership Property" shall be renumbered Article 103.

SECTION 18. Article 120 of the Family Code of the Philippines under the heading "Conjugal Partnership Property" shall be renumbered Article 104.

SECTION 19. Article 121 of the Family Code of the Philippines under the heading "Charges Upon and Obligations of the Conjugal Partnership" shall be renumbered Article 105.

SECTION 20. Article 122 of the Family Code of the Philippines under the heading "Charges Upon and Obligations of the Conjugal Partnership" shall be renumbered Article 106.

SECTION 21. Article 123 of the Family Code of the Philippines under the heading "Charges Upon and Obligations of the Conjugal Partnership" shall be renumbered Article 107.

SECTION 22. Article 124 of the Family Code of the Philippines under the heading "Administration of the Conjugal Partnership Property" shall be renumbered Article 108.

SECTION 23. Article 125 of the Family Code of the Philippines under the heading "Administration of the Conjugal Partnership Property" shall be renumbered Article 109.

SECTION 24. Article 126 of the Family Code of the Philippines under the heading "Dissolution of Conjugal Partnership Regime" shall be renumbered Article 110.

SECTION 25. Article 127 of the Family Code of the Philippines under the heading "Dissolution of Conjugal Partnership Regime" shall be renumbered Article 111.

SECTION 26. Article 128 of the Family Code of the Philippines under the heading "Dissolution of Conjugal Partnership Regime" shall be renumbered Article 112.

SECTION 27. Article 129 of the Family Code of the Philippines under the heading "Liquidation of the Conjugal Partnership Assets and Liabilities" shall be renumbered Article 113.

SECTION 28. Article 130 of the Family Code of the Philippines the heading "Liquidation of the Conjugal Partnership Assets and Liabilities" shall be renumbered Article 114.

SECTION 29. Article 131 of the Family Code of the Philippines the heading "Liquidation of the Conjugal Partnership Assets and Liabilities" shall be renumbered Article 115.

SECTION 30. Article 132 of the Family Code of the Philippines the heading "Liquidation of the Conjugal Partnership Assets and Liabilities" shall be renumbered Article 116.

SECTION 31. Article 133 of the Family Code of the Philippines the heading "Liquidation of the Conjugal Partnership Assets and Liabilities" shall be renumbered Article 117.

SECTION 32. Article 90 of the Family Code of the Philippines shall be renumbered Article 118 under the heading "General Provisions" of Chapter 4 which shall hereby be subtitled "System of Absolute Community of Property."

SECTION 33. Article 107 of the Family Code of the Philippines under the heading of "General Provisions" shall be renumbered Article 119 and shall be amended to read as follows:

Art. 119. The rules provided in Articles 88 and 89 shall also apply to **THE SYSTEM OF ABSOLUTE COMMUNITY OF PROPERTY** (conjugal partnership of gains).

SECTION 34. Article 91 of the Family Code of the Philippines under the heading "what Constitutes Community Property" shall be renumbered Article 120.

SECTION 35. Article 92 of the Family Code of the Philippines under the heading "what Constitutes Community Property" shall be renumbered Article 121.

SECTION 36. Article 93 of the Family Code of the Philippines under the heading "what Constitutes Community Property" shall be renumbered Article 122.

SECTION 37. Article 94 of the Family Code of the Philippines under the heading "Charges Upon and Obligations of the Absolute Community" shall be renumbered Article 123.

SECTION 38. Article 95 of the Family Code of the Philippines under the heading "Charges Upon and Obligations of the Absolute Community" shall be renumbered Article 124.

SECTION 39. Article 96 of the Family Code of the Philippines under the heading "Ownership, Administration, Enjoyment and Disposition of Community Property" shall be renumbered Article 125.

SECTION 40. Article 97 of the Family Code of the Philippines under the heading "Ownership, Administration, Enjoyment and Disposition of Community Property" shall be renumbered Article 126.

SECTION 41. Article 98 of the Family Code of the Philippines under the heading "Ownership, Administration, Enjoyment and Disposition of Community Property" shall be renumbered Article 127.

SECTION 42. Article 99 of the Family Code of the Philippines under the heading "Dissolution of Absolute Community Property" shall be renumbered Article 128.

SECTION 43. Article 100 of the Family Code of the Philippines under the heading "Dissolution of Absolute Community Property" shall be renumbered Article 129.

SECTION 44. Article 101 of the Family Code of the Philippines under the heading "Dissolution of Absolute Community Property" shall be renumbered Article 130.

SECTION 45. Article 102 of the Family Code of the Philippines under the heading "Liquidation of the Absolute Community Assets and Liabilities" shall be renumbered Article 131.

SECTION 46. Article 103 of the Family Code of the Philippines under the heading "Liquidation of the Absolute Community Assets and Liabilities" shall be renumbered Article 132.

SECTION 47. Article 104 of the Family Code of the Philippines under the heading "Liquidation of the Absolute Community Assets and Liabilities" shall be renumbered Article 133.

SECTION 48. If any portion or provision of this Act is declared unconstitutional or invalid, the other portions or provisions hereof, which are not affected thereby, shall continue in force o r full effect.

SECTION 49. All laws, decrees, executive order, or rules and regulations inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 50. This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,